

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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SALVADOR RICO-RIVAS,

Case No. 3:23-cv-00288-MMD-CLB

Petitioner,

ORDER

v.

NETHANJAH BREITENBACH, *et al.*,

Respondents.

Salvador Rico-Rivas has submitted a *pro se* petition for writ of habeas corpus, under 28 U.S.C. § 2254. (ECF No. 1-1.) He has not paid the \$5.00 filing fee. While he has submitted the required completed financial certificate and inmate account statements (ECF No. 4), he has not filed an application to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a)(2); LSR 1-2.¹

This action therefore is subject to dismissal without prejudice as improperly commenced. However, it is unclear from the papers presented whether a dismissal without prejudice will materially affect a later analysis of any timeliness issue with respect to a new action.

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¹The Court notes that the financial certificate and account statements provided demonstrate that Rico-Rivas is able to pay the \$5.00 filing fee. Based on the current information that the Court has, an application to proceed *in forma pauperis* would be denied.

1 It is therefore ordered that, within **30 days** of the date of this order, Petitioner must
2 submit either the \$5.00 filing fee or a fully completed application to proceed *in forma*
3 *pauperis*.

4 It is further ordered that failure to do so may result in the dismissal of this action
5 without prejudice.

6 It is further ordered that the Clerk of Court retain the petition but not file it at this
7 time.

8 DATED THIS 26th Day of July 2023.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE